

# CONTENTS

## In session order

“Are we there yet?”: Is there a contract, and what does it contain? .....	1
<i>David Goddard QC</i>	
Good faith .....	27
<i>Justin Smith</i>	
Misrepresentation, negligence, and the Fair Trading Act 1986 in a contractual setting .....	35
<i>Christine French</i>	
Equitable estoppel .....	51
<i>The Hon Justice Forrie Miller</i>	
Fiduciary obligations .....	61
<i>Stephen Kós QC</i>	
Secondary liability .....	77
<i>Tom Weston QC</i>	
Remedies .....	91
<i>Campbell Walker</i>	
<b>Appendix</b>	
Fact pattern .....	119
[Fact pattern prepared by Professor Peter Watts, Law Faculty, University of Auckland]	

## CHAIR



### **The Hon Justice Hammond, Court of Appeal**

Justice Hammond was educated at the University of Auckland and the University of Illinois. He was a litigation partner in Tompkins Wake and Co, Hamilton. He then taught in several American and Canadian universities, and was chairman of a Canadian law reform agency before returning to Auckland as a professor and dean of law. Justice Hammond was appointed to the High Court in 1992, and the Court of Appeal in 2004.

## PRESENTERS



### **Christine French, French Burt Partners, Invercargill**

Christine appeared as counsel in the landmark Privy Council decision in *Invercargill City Council v Hamlin*. She is co-author of “Contract” in the *Laws of New Zealand* and her article “The Contract/Tort Dilemma” has been cited with approval by the House of Lords in *Henderson v Merritt Syndicates Limited* and by the Supreme Court of Canada in *Central Trust Co v Rafuse*. Christine is a former Rhodes Scholar.



### **David Goddard QC, Wellington**

David has a wide ranging commercial litigation practice, with an emphasis on competition law and market regulation, company law, contract law, public law and international law. He also has a substantial involvement in law reform in New Zealand and overseas. David publishes and speaks regularly in his areas of specialisation, and has taught at universities in New Zealand, Australia and England. He is the Council of Legal Education moderator for contract law.



### **Stephen Kós QC, Wellington**

Stephen has degrees in law from Victoria and Cambridge Universities. He joined the independent Bar in 2005, having been chairman of partners at Russell McVeagh and a litigation partner of that firm from 1988 to 2005. He practises in the fields of contract and commercial litigation and environment law at Stout Street Chambers.

### **The Hon Justice Miller, High Court, Wellington**

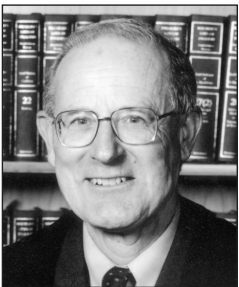
Justice Forrie Miller is a judge of the High Court, having been appointed in February 2004. Before his appointment he was chairman of Chapman Tripp and a commercial litigator, specialising in securities, competition and regulatory law.

## PRESENTERS



### **Justin Smith, Barrister, Wellington**

Justin specialises in commercial litigation. He is a former crown prosecutor (1982 - 1986), was a partner at Kensington Swan (1988 - 1994) and a partner at Russell McVeagh (1994 - 2007) where he was a member and then chairman of its board of management. He has practised at Stout Street Chambers since early 2007. Justin has represented numerous clients, from individuals to the largest national and international corporates, at all levels.



### **The Rt Hon Justice Tipping, Supreme Court**

The Rt Hon Justice Tipping graduated from Canterbury University. He is a former partner of Wynn Williams & Co. He was appointed a judge of the High Court in 1986, the Court of Appeal in 1997 and of the Supreme Court in January 2004.



### **Campbell Walker, Gilbert Walker, Auckland**

Campbell Walker is a partner at Gilbert Walker, the specialist litigation and arbitration firm. He took his LLM at Yale University and his PhD in law at Cambridge University, where he won the Yorke Prize. Before starting Gilbert Walker with Murray Gilbert in 2004, he was an associate in the Paris office of Shearman & Sterling LLP, practising in international arbitration.



### **Tom Weston QC, Christchurch**

Tom Weston took silk in 1999. He was appointed a part time judge of the High Court and Court of Appeal of the Cook Islands in 2006. He has been on the SFO panel of prosecutors for many years and had two terms on the Rules Committee. Tom was formerly president of the CDLS and a council member of the NZLS.